IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE THIRTIETH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE BILAL NAZKI

and
THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO : 2834 of 1994

Between:

Dhulipala Venkataramaiah S/o late Venkata Subbaiah
R/o 54-14/6-1B, Bharath Nagar, Opp: Vinayak theatre
Vijayawada, Krishna Dist- **..... PETITIONER**

AND

1.The Government of A.P., rep. by Secretary
Housing & Municipal Administration,

Secretariat Buildings, Saifabad, Hyderabad
2.The Commissioner, Municipal Corporation
Vijayawada, Krishna Dist. **.....RESPONDENTS**

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate order or direction more especially one in the nature of Writ of Mandamus declaring that Rule 8 of Hyderabad Municipal Corpn. (Assessement) Property Tax Rules 1990 in so far as it enables the Authorities to assess the tax on vacant land at the estimated capital value of the land as per the market value instead of annual rental value as arbitray, illegal and without jurisdiction and hit by Article 14 of the Constitution of India and ultravires to the provisions of the Act and rule making para and consequently direct the 2nd respondent herein to declare that the property tax cannot be levied on the agricultural land and to consequently set aside the orders of the 2nd respondent in procs.No.S.III/530/93 dt; 7-1-94 as it is illegal and arbitrary and pass such other order or orders as the Hon'ble Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner: MR.P.R.PRASAD

Counsel for the Respondent No.1: GP FOR MUNCIPAL ADMN. & URBAN DEV. (Not Present)

Counsel for the Respondent No.2: Mr.T.S.Venkata Ramana (Not Present)

The Court made the following :

JUDGMENT: (PER BN, J)

Nobody appears for respondents. Heard learned Counsel for the petitioner and perused the record. Counter-affidavit has been filed by the second respondent.

The grievance of the petitioner is that he has been charged the vacant land tax although the property does not belong to him. He submits that by a registered partition deed, the ancestral property has been divided as early as in the year 1971 and the land in question fell to the share of petitioner's daughter, therefore, no demand should be made as against him.

In the counter-affidavit, it is stated that at no point of time, the petitioner has informed the respondents that the land in question has fell to the share of his daughter and if he produces the evidence showing that his daughter was the owner of the property, respondents would have no objection to change the owner's name of the property and also raise their demand against her.

In this view of the matter, we do not think it is necessary to go into the legal questions raised in this writ petition. We dispose of the writ petition by allowing the petitioner to produce evidence before the respondents that his daughter is the owner of the property. The evidence accompanied with an application for change of name of the owner shall be made by the petitioner within fifteen days from today. The respondents shall then pass appropriate orders in accordance with law. For a period of two weeks from today, recovery shall not be affected as against the petitioner. No costs.

(Bilal Nazki, J)

30TH August, 2004

(S.Ananda Reddy, J)

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Copy to:

1.The Secretary, Government of A.P.,

Housing & Municipal Administration,

Secretariat Buildings, Saifabad, Hyderabad
2.The Commissioner, Municipal Corporation
Vijayawada, Krishna Dist.

3.Two CCs to the G.P. for Municipal Admn., and Urban Dev., High Court Buildings,
High Court of A.P.,

Hyderabad. (O.U.T)

4.Two CD copies.